

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

DANIEL LEE WOLFE,

Petitioner,

Case Number 01-10053-BC
Honorable David M. Lawson

v.

BARBARA BOCK,

Respondent.

**ORDER VACATING ORDER DENYING MOTION TO PROCEED
IN FORMA PAUPERIS AND GRANTING MOTION TO PROCEED
IN FORMA PAUPERIS ON APPEAL**

On March 14, 2006, the Court issued an order granting in part Daniel Lee Wolfe's request for a certificate of appealability and denying his motion to proceed *in forma pauperis* on appeal because he had not submitted an affidavit of indigency with his motion. It appears that the filing has caught up with the docket because the Court has since received information regarding the funds available to the petitioner. Consequently, the Court vacates its former order denying the motion to proceed *in forma pauperis* and grants the motion to proceed *in forma pauperis* on appeal.

Because the petitioner paid the \$5 filing fee when he filed his petition, *see* 28 U.S.C. § 1914, he is not automatically authorized to appeal *in forma pauperis* under Federal Rule of Appellate Procedure 24(a)(3) and must show that he qualifies for such status.

This Court may authorize the prosecution of any appeal without the prepayment of fees by a prisoner who shows that he is unable to pay such fees. Fed. R. App. P. 24(a); *Kincade v. Sparkman*, 117 F.3d 949, 952 (6th Cir. 1997). The Court has received information from the petitioner regarding the funds that are available to him and is satisfied that he is unable to pay the fee. The petitioner's request will therefore be granted.

Accordingly, it is **ORDERED** that the Order denying application to proceed *in forma pauperis* on appeal is **VACATED**.

It is further **ORDERED** that the motion to proceed *in forma pauperis* on appeal [dkt # 26] is **GRANTED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: March 20, 2006

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on March 20, 2006.

s/Tracy A. Jacobs
TRACY A. JACOBS